EXECUTIVE DIRECTIVE # 2
RECOMMENDATIONS AS OF OCTOBER 12, 2004

Eligibility

(From Combo of Recommendations 7 and 17)

- Increase the income standard for pregnant women to 200 percent of the federal poverty level (FPL). Women between 133 percent FPL and 200% FPL will be enrolled in SCHIP to leverage federal funds (66% federal share versus basic Medicaid program federal share of 50%).
- Implement the "no wrong door" program which allows central registration of all eligible women within 10 days of applications for either Medicaid or SCHIP (FAMIS).

Recommendation # 18

- Department of Medical Assistance Services (DMAS) should study the feasibility of extending Medicaid emergency services to cover prenatal care for lawful permanent residents and to extend similar services to undocumented women to the extent permitted by federal law.
- DMAS shall report its findings to the Secretary of Health and Human Resources no later than December 1, 2005.

(From Combo of Recommendations 7 and 17)

- The Subcommittee recognizes the need for adequate dental and substance abuse services available for pregnant women in the Medicaid and FAMIS programs and recommends that DMAS fund these services due to their impact on successful gestation and delivery.

Reimbursement

Recommendation # 35

- Beginning July 1, 2005, the Resource Based Relative Value Scale (RBRVS)-based fees within the Medicaid Physician Fee Schedule should be adjusted annually for inflation.

Recommendation # 32

- Beginning July 1, 2005, the Medicaid Physician Fee Schedule for OB/GYN services should be increased by 8.14 percent above the schedule that became effective September 1, 2004. This applies to all licensed providers who bill under these codes. This increase would bring the total increase for OB/GYN services to 44.91 percent, compared to the July 1, 2004 payment levels, and would make Medicaid payment rates for these services equal to the "Medicare equivalent."

Recommendation # 34

- Beginning July 1, 2005, the Medicaid Physician Fee Schedule for Pediatric services should be increased by 44.91 percent above the schedule currently in effect. (This applies to all licensed providers who bill under these codes.) This increase would make Medicaid payment rates for these services equal to the "Medicare equivalent."

Recommendation # 33

- DMAS should increase Medicaid inpatient hospital payment rates for obstetrical-related services by 33.33 percent effective not later than July 1, 2005 and earlier if the Governor determines that emergency funding is indicated.

Medical Malpractice Insurance

Recommendation # 19

- Amend §38.2-231 of the *Code of Virginia* to extend the current 45-day notice requirement to 90 days when a medical malpractice insurance policy is not renewed or is cancelled, or the insurer proposes a premium increase of more than 25%.

Recommendation # 20

- Amend Title 38.2 of the *Code of Virginia* to require insurers to report "closed claims" as previously required under repealed § 38.2-2228. Include language that allows insurers to report the information electronically to the Bureau of Insurance.

Recommendation # 22

- Request that the Special Joint Subcommittee Studying Risk Management Plans pursuant to Senate Bill 601 consider the feasibility of extending the provisions of the Virginia Tort Claims Act to selected licensed providers of obstetrical and gynecological services. This request will be made by letter from the Secretary of Health and Human Resources to the Chairman of the Joint Subcommittee.

Recommendation # 23

- Amend Title 38.2 of the *Code of Virginia* to require all licensed insurers to have in place a rule allowing job-sharing under a full-time equivalent rating rule and that all licensed insurers be required to offer a credit for part-time practice for licensed providers of obstetrical and gynecological services.

Recommendation # 21

- Establish a medical malpractice insurance premium subsidy program for sole community hospitals and licensed providers of obstetrical services whose practice includes a specified percentage of uninsured and Medicaid patients. The program would be administered by the Department of Treasury's Division of Risk Management and implemented by July 1, 2006.
- The Division of Risk Management shall incorporate in the second year of the program's operation a requirement that licensed OB/GYN providers follow evidence-based practice guidelines in order to qualify for the subsidy. The Division of Risk Management shall submit a report to the Governor, and the Chairman of the Senate Finance Committee, the Senate Education and Health Committee, the House Appropriations Committee, and the House Health, Welfare and Institutions Committee by October 1, 2005 outlining how it proposes to implement and administer the subsidy program.
- Include $1,000,000 GF and language in the Appropriation Act to authorize and implement this program.

Practice / Licensure

Recommendations # 10 – 11 (Combine into a single recommendation)

- Promote a model of prenatal, delivery, and postnatal care that is centered on evidence-based health care practices and outcomes. Wherever possible, evidence-based health care should be incorporated into decisions making or changing health policy.

Recommendation # 12

- To encourage the practice of evidence-based prenatal and obstetrical care, all obstetrical providers licensed in the Commonwealth of Virginia should follow the Guidelines for Perinatal Care adopted jointly by the American College of Obstetrics and Gynecology and the American Academy of Pediatrics (for physicians) or The Standards of Midwifery Practice (for Certified Nurse Midwives), if these Guidelines are consistent with good clinical judgment.
- The Secretary shall request that the 2005 General Assembly adopt a joint resolution acknowledging the importance of these Guidelines and encouraging appropriate professional associations to disseminate these guidelines to their members.

Recommendation # 9

- Health care organizations and appropriate state agencies should explore opportunities to develop an electronic health record system to support evidence-based practice and that complies with HIPAA and other national standards.
- The Secretary of Health and Human Resources shall work with agencies in the Secretariat to link public and private providers and health systems to maximize resources and experience and shall report to the Governor by December 15, 2005

Recommendations # 10 – 11 (Combine into a single recommendation)

- A universal risk screening assessment tool for pregnant women should be developed and incorporated into the electronic record system.
- The Virginia Department of Health (VDH) should take the lead in developing this tool in consultation with academic medical centers, community hospitals, obstetricians, certified nurse midwives and others as needed.

Combined Recommendations 27-28

- VDH should oversee the development of one or more pilot sites for a system of prenatal and obstetrical care in areas that are experiencing access problems. The purpose of the pilots is to demonstrate the effectiveness of a new practice paradigm among obstetric providers designed to increase access to high quality pregnancy-related care.
- In the pilot site(s), Certified Nurse Midwives (CNMs) would practice in collaboration and consultation with physicians in close proximity who would agree to be a referral source as stipulated in a mutually agreed protocol consistent with the evidence-based practice.
- VDH should convene stakeholders including, but not limited to, obstetricians, family practitioners, and licensed nurse midwives to define the protocol to be used in the pilot not later than September 1, 2005. The protocol will determine, among other things, how "collaboration and consultation" will be defined for the pilots.
- Clinical back-up for the licensed practitioners participating in the pilot shall be provided by one or more Level III Perinatal Center(s).
- For pilot sites that elect to include birthing centers as part of the system of care, these centers must be in close enough proximity to a health care facility equipped to perform emergency surgery if needed. Any birthing center that is part of the pilot licensure must, at minimum, maintain membership in National Association of Childbearing Centers (NACC) and annually submit the following information to the State Health Commissioner: 1) a survey of birth center operations, 2) outcome indicators and 3) data presented according to the NACC Uniform Data Set. Consideration should be given to establishing state regulations for licensure of birthing centers.
- The licensing of birth centers is not intended to alter in any way existing provisions of the Certificate of Public Need. Pilot site(s) are encouraged to include the use of telemedicine in the execution of their pilot project(s.)
- VDH shall provide a report to the Secretary of Health and Human Resources on outcomes of the pilot and any additional regulatory or administrative changes needed not later than December 1, 2007.

Recommendation # 29

- Amend the *Code of Virginia* to allow Certified Nurse Midwives (CNMs) to practice with physician collaboration, consultation, and referral statewide by eliminating language that requires supervision for CNMs.

Birth Injury Fund

Recommendation # 13

- A uniform data collection tool should be adopted by the Workers' Compensation Commission for use by consultants evaluating medical records to determine whether children should be admitted to or denied access to the Virginia Birth-Related Neurological Injury Compensation Program. The form shall reflect criteria that are consistent with the existing provisions of the Virginia Birth-Related Neurological Injury Compensation Program and is intended to assist in assuring that decisions are as consistent as possible across the Commonwealth, recognizing that there are subtle differences in individual cases that require the exercise of medical judgment.

Recommendation # 15

- VDH, the Board of Medicine (BOM), University of Virginia, Virginia Commonwealth University, Medical College of Virginia, and Eastern Virginia Medical School, in collaboration with stakeholder organizations, shall develop a process and mechanism to: 1) collect and analyze their findings from Birth-Related Injury Compensation Program cases admitted on or after July 1, 2005 and 2) shall work with perinatal provider organizations to develop and disseminate reports on the factors in obstetrical care that contribute to adverse birth outcomes.

Recommendation # 14

- The BOM and VDH should fully implement Recommendation Numbers 21 and 22 * from the Joint Legislative Audit and Review Commission (JLARC) in its November 2002 "Review of the Virginia Birth-Related Neurological Injury Compensation Program."
- These call for routinely interviewing the claimant families about the events surrounding the births and notifying them about the outcome of the medical reviews.

Recommendation # 16

- VDH, through its health districts, shall initiate, and update as needed, (but not less frequently than every three years), memoranda of agreement with appropriate local obstetrical providers as specified by the Virginia Birth-Related Neurological Injury Compensation Program.
- The purpose of these agreements is to develop a plan to improve access for low income and uninsured women.

Improving Access to Care

Recommendation # 24

- Appropriate $440,000 GF annually to VDH to provide additional loan repayment specifically for licensed physicians providing OB/GYN services who agree to practice for a specified period of time in an area designated as having a shortage of physicians providing OB/GYN services.
- Work through Virginia's Congressional delegation to encourage federal designation of shortage areas specifically for obstetricians while assuring that such a carve-out from the current primary care category does not negatively impact federal designation of Health Professional Shortage Areas.

Recommendation # 25

- Support the use of telemedicine to increase access to university-based and other clinics perinatal services. VDH and DMAS should collaborate to develop strategies to assist communities and other entities to aggressively pursue funding for telemedicine. By December 1, 2005, these agencies shall report to the Secretary of Health and Human Resources on the number of additional telemedicine sites that have been added or increases in the use of existing telemedicine sites.

Recommendation # 26

- Increase the availability of pre and post-natal care by VDH allocating new general funds appropriated in FY 06 specifically for that purpose to local health departments in areas identified as under served and to those districts whose current funding level does not permit them to provide direct care.
- To assure these funds are utilized, VDH should eliminate the requirement for local match funds for this particular use.

Recommendations # 1 – 6 (Combine into a single recommendation)

- The Committee recognizes that a wide range of knowledge levels exists among Virginians regarding the components of good perinatal care, and that effective communication must incorporate variable health literacy levels as well as the cultural and linguistic characteristics of the audience (s). Therefore the Committee recommends that VDH should:

    - Develop and implement a statewide outreach/education/public awareness campaign, incorporating culturally and linguistically appropriate materials, including but not limited to the topics of: options for prenatal care, birth choices, breastfeeding and the importance of dental care for pregnant women.
    - Assure that relevant materials are translated via appropriate translation protocols and posted on the VDH website, available for download.
    - Encourage the availability of interpreter services at all points of service.
    - Encourage cultural competence training for health care providers, whether via continuing education or, in conjunction with the Council on Higher Education in Virginia, as part of the curriculum for students in the allied health professions at state-supported institutions.
    - Work with the Board of Dentistry to establish a statewide outreach program targeting dentists and dental hygienists, with the objective of improving the oral health of pregnant women and babies.
    - Distribute (including availability on the website) materials that encourage non-English speaking patients to learn English and identify local community learning opportunities.

Recommendation # 8

- Appropriate $120,000 GF over a two year period to support the Virginia Tech Transportation Institute project assessing the feasibility of statewide human services transportation programs. Case studies developed through the project should focus on areas of the state identified by the ED2 Work Group that appear to have the most significant distance/travel requirements to access obstetric services. The Institute shall submit an interim report of its findings to the Secretary of Health and Human Resources not later than December 1, 2005, to be reviewed to determine if additional funding is necessary to improve access to obstetrical care.